


Councilmember Phil Mendelson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Phil Mendelson introduced the following bill, which was referred to the
Committee on _____.

To codify the "Miranda Warnings" in the District of Columbia and to require that custodial
interrogations be recorded.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
act may be cited as the "Miranda Codification Act of 2001".

Sec. 2.(a) No police officer shall make an arrest of a person suspected of committing an
offense without at the time of the arrest informing the person of the following warnings:

(1) The accused has the right to remain silent and not make any statement at all
and that any statement the accused makes may be used against the accused at trial;

(2) Any statement the accused makes may be used against the accused at trial;

(3) The accused has a right to have a lawyer present to advise him or her prior to
and during any questioning;

(4) If the accused is unable to afford a lawyer, he has the right to have a lawyer
appointed to advise him or her prior to and during questioning; and

(5) The accused has the right to terminate the interview at any time.

(b) No oral or sign language statement by the accused as a result of an interrogation shall be admissible as evidence against him or her in any criminal proceeding unless it is shown that the warnings of subsection (a) were given and that the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed by this section.

Sec. 3 (a) A police officer who in a place of detention interrogates a person suspected of committing an offense shall videotape the interrogation and must inform the suspect that the interrogation is being videotaped. For the purposes of this section "place of detention" means any location where suspects are held for questioning or detention. Place of detention includes but is not limited to station houses, district headquarters, Department headquarters, or holding cells.

(b) No oral or sign language statement by the accused as a result of a custodial interrogation in a place of detention shall be admissible as evidence against the accused in any criminal proceeding unless:

(1) A videotaped recording is made of the interrogation and the statement;

(2) Prior to the statement but during the recording the accused is given the warnings prescribed in section 2(a) and the accused knowingly, intelligently and voluntarily waives any rights set out in the warning;

(3) The recording device was capable of making an accurate recording, the operator was competent, and the recording is accurate and has not been altered;

(4) All voices and persons on the recording are identified; and

(5) In accordance with court rules determining discovery, but not later than the

20th day before the date of the proceeding, the attorney representing the accused is provided with
a true, complete and accurate copy of all recordings of the defendant made under this act.

(c) If an interrogation is done within a police vehicle that is not equipped with video
recording equipment, the interrogation shall be electronically recorded.

(d) Every electronic recording of any interrogation and/or statement made by an accused
during a custodial interrogation in a place of detention must be preserved until such time as the
accused's conviction for any offense related thereto is final, all direct appeals therefrom are
exhausted, or the prosecution of such offenses is barred by law.

Sec. 4. (a) If the accused is a deaf person, the accused's statement under this section is
not admissible against the accused unless the warning of section 2 is interpreted to the deaf
person by a qualified interpreter.

Sec. 5. When any statement, the admissibility of which is covered by this act, is sought to
be used in connection with an official proceeding, any person who swears falsely to facts and
circumstances which, if true, would render the statement admissible under this act, is presumed
to have acted with intent to deceive and with knowledge of the statement's meaning for the
purpose of prosecution for perjury. No person prosecuted under this section shall be eligible for
probation.

Sec. 6. Nothing in this act precludes the admission of a statement taken in violation of
section 2 or 3 of this act to impeach testimony of the defendant which is inconsistent with said
statement.

Sec. 7. In all cases where a question is raised as to the voluntariness of a statement of an
accused, the court shall make an independent finding in the absence of the jury as to whether the
statement was made under voluntary conditions. If the statement has been found to have been

voluntarily made and held admissible as a matter of law and fact by the court, the court shall 1
enter an order stating its conclusion as to whether or not the statement was voluntarily made, 2
along with the specific finding of facts upon which the conclusion is based. Such order shall not 3
be exhibited to the jury nor the finding thereof make known to the jury in any manner. Upon the 4
finding of the court that the statement was voluntarily made, evidence pertaining to such matter 5
may be submitted to the jury and it shall be instructed that unless the jury believes beyond a 6
reasonable doubt that the statement was voluntarily made, the jury shall not consider such 7
statement for any purpose nor any evidence obtained as a result thereof. In any case where a 8
motion to suppress the statement has been filed and evidence has been submitted to the court on 9
the issue, the court, within its discretion, may reconsider such evidence in its finding that the 10
statement was voluntarily made and the same evidence submitted to the court at the hearing on 11
the motion to suppress shall be made part of the record as if it was presented at the time of trial. 12
However, the prosecution or the defendant shall be entitled to present any new evidence on the 13
issue of voluntariness of the statement prior to the court's final ruling and the court's order stating 14
its findings. 15

Sec. 8. When the issue is raised by the evidence, the trial judge shall appropriately 16
instruct the jury, generally, on the law pertaining to such statement. 17

Sec. 9. Fiscal impact statement. 18

The Council adopts the fiscal impact statement in the committee report as the fiscal 19
impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, 20
approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)). 21

Sec. 10. This act shall take effect following approval by the Mayor (or in the event of 22
veto by the Mayor, action by the Council to override the veto), approval by the Financial 23

Responsibility and Management Assistance Authority as provided in section 203(a) of the
District of Columbia Financial Responsibility and Management Assistance Act of 1995,
approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of
Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule
Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in
the District of Columbia Register.

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